

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR WARMING PRODUCT LIABILITY LITIGATION MDL No.: 15-md-02666 (JNE/FLN)

This Document Relates To:

JOHN SUCHAN,

Plaintiff,

Civil Action No.: 17-CV-02452-JNE-FLN

DECLARATION OF DONALD C. GREEN II IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff John Suchan in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1068] filed on February 1, 2018.
3. Mr. Suchan contacted Kennedy Hodges, LLP in September of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. Suchan's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records indicate use of a Bair Hugger device during his original orthopedic surgery.

5. This case was filed on July 3, 2017 to comply with the statute of limitations deadline.
6. Numerous phone calls were placed to Mr. Suchan by staff at Kennedy Hodges in an attempt to reach him and obtain information to complete the Plaintiff Fact Sheet. These calls were placed between July 2017 and October 2017, prior to and continuing after the original deadline for submission of the Plaintiff Fact Sheet.
7. Additionally, several letters were sent to Mr. Suchan during that same time period, requesting that he contact our office to complete the Plaintiff Fact Sheet.
8. On November 3, 2017, a Ms. Anne Suchan, who represented that she was the daughter of Mr. Suchan, left a voicemail stating that he had passed away sometime prior. We were not aware of Mr. Suchan's passing until this voicemail.
9. Ms. Suchan did not return a phone call made by staff later that day. Additional phone calls to Ms. Suchan from November 2017 through February 2018 likewise went unanswered.
10. Additionally, letters were sent to Ms. Suchan between November 2017 and January 2018 requesting that she contact our office to provide an update on the probate process and the naming of a representative for the estate.
11. Based on information and belief, Ms. Suchan has not made any attempt to contact Kennedy Hodges in response to these phone calls and letters.
12. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim or obtain the necessary permission and authorization from a representative of the estate to complete and submit a revised

Plaintiff Fact Sheet, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case. Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

February 8, 2018

/s/ Donald C. Green II
Donald C. Green II